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W.A.Nos.1168, 1169, 1220 & 1221 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.01.2025

PRONOUNCED ON : 17.02.2025

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.A.Nos.1168, 1169, 1220 & 1221 of 2015

W.A.No.1168 of 2015:

- 1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Industries Department,
Fort St. George, Chennai.
 - 2.The Special Committee appointed under G.O.Ms.No.156,
Represented by its Chairman,
Mr.Gagandeep Singh Bedi, I.A.S.,
Fort St. George, Chennai.
 - 3.Mr.Gagandeep Singh Bedi, I.A.S.,
Secretary to Government,
Revenue Department,
Fort St. George, Chennai.
 - 4.The Collector,
Tirunelveli District.
 - 5.The Collector,
Tuticorin District.
- ... Appellants

Vs.

- 1.Transworld Garnet India Private Limited,
Represented by its General Manager, Stephen David,



W.A.Nos.1168, 1169, 1220 & 1221 of 2015

No.34/46, MGR Road,
Kalakshetra Colony,
Besant Nagar, Chennai – 90.

2.D.Dhaya Devadas

3.Southern Region Mines and Mineral Based
Workers Welfare Association,
Registered No.3/95,
Ittamozhi Road,
Keeraikaranthattu,
Tisayanvilai – 627 657,
Tirunelveli District.

4.The Member Secretary,
Tamil Nadu Pollution Control Board (TNPCB),
Panagal Maaligai,
76, Mount Salai, Guindy,
Chennai – 600 032.

5.Principal Secretary,
Government of Tamil Nadu,
Ministry of Environment and Forests,
Fort St. George,
Chennai – 600 009.

6.The Director General of Foreign,
Trade, Department of Commerce,
Udyog Bhavan, H-Wing, Gate No.2,
Maulana Azad Road, New Delhi – 110 011.

7.M/s.Indian Rare Earth Limited,
Having its Registered Office,
Plot No.1207, ECIL Buildings,
Veer Savarkar Marg, Prabhadevi,
Mumbai – 28.

... Respondents

[R3 impleaded vide order dated 07.06.2018 made in CMP.Nos.9714
& 9715 of 2018 in W.A.Nos.1168, 1169, 1220 & 1221 of 2015]

[R4 and R5 impleaded vide order dated 12.11.2021 made
in W.A.Nos.1168, 1169, 1220 & 1221 of 2015]

[R6 & 7 are impleaded vide order dated



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10.01.2025 in CMP.Nos.19030 & 19032 of 2018]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the orders of the Learned Judge except the findings in the first issue passed in W.P.No.16716 of 2014 dated 29.07.2015.

For Appellants	: Mr.Aravind P.Dattar Senior Counsel Assisted by Mr.B.Vijay Additional Government Pleader
For R1	: Mr.Srinath Sridevan Senior Counsel For Mr.T.K.Bhaskar
For R2	: Mr.V.Selvaraj
For R4	: Mr.B.N.Suchindran Standing Counsel [For TNPCB]
For R3 & R7	: No Appearance

W.A.No.1169 of 2015:

- 1.The State of Tamil Nadu,
Represented by the Chief Secretary to Government,
Fort St. George, Chennai.
- 2.The Special Committee appointed under G.O.Ms.No.156,
Represented by its Chairperson,
Mr.Gagandeep Singh Bedi, I.A.S.,
Fort St. George, Chennai.
- 3.Mr.Gagandeep Singh Bedi, I.A.S.,
Secretary to the Government,
Revenue Department,
Fort St. George, Chennai.
- 4.The State of Tamil Nadu,
Represented by Secretary to Government,
Industries Department,



W.A.Nos.1168, 1169, 1220 & 1221 of 2015

Fort St. George, Chennai.

5.The Commissioner of Geology and Mining,
Chepauk, Chennai.

... Appellants

Vs.

1.V.V.Minerals, a firm,
Represented by Managing Partner,
Mr.S.Vaikundarajan,
Keeraikaransthattu,
Tisaiyanvilai, Tirunelveli District.

2.D.Dhaya Devadas

3.Southern Region Mines and Mineral Based
Workers Welfare Association,
Registered No.3/95,
Ittamozhi Road,
Keeraikaranthattu,
Tisayanvilai – 627 657,
Tirunelveli District.

4.The Member Secretary,
Tamil Nadu Pollution Control Board (TNPCB),
Panagal Maaligai,
76, Mount Salai, Guindy,
Chennai – 600 032.

5.Principal Secretary,
Government of Tamil Nadu,
Ministry of Environment and Forests,
Fort St. George,
Chennai – 600 009.

6.The Director General of Foreign,
Trade, Department of Commerce,
Udyog Bhavan, H-Wing, Gate No.2,
Maulana Azad Road, New Delhi – 110 011.

7.M/s.Indian Rare Earth Limited,
Having its Registered Office,
Plot No.1207, ECIL Buildings,
Veer Savarkar Marg, Prabhadevi,



W.A.Nos.1168, 1169, 1220 & 1221 of 2015

Mumbai – 28.

... Respondents

[R3 impleaded vide order dated 07.06.2018 made in CMP.
Nos.9714 & 9715 of 2018 in W.A.Nos.1168, 1169, 1220 & 1221 of 2015]
[R4 and R5 impleaded vide order dated 12.11.2021 made
in W.A.Nos.1168, 1169, 1220 & 1221 of 2015]
[R6 & 7 are impleaded vide order dated
10.01.2025 in CMP.Nos.19030 & 19032 of 2018]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the orders of the Learned Judge except the findings in the first issue passed in W.P.No.19641 of 2014 dated 29.07.2015.

For Appellants	: Mr.Aravind P.Dattar Senior Counsel Assisted by Mr.B.Vijay Additional Government Pleader
For R1	: Mr.V.Raghavachari Senior Counsel For Mr.T.K.Bhaskar
For R2	: Mr.V.Selvaraj
For R4	: Mr.B.N.Suchindran Standing Counsel [For TNPCB]
For R3 & R7	: No Appearance

W.A.No.1220 of 2015:

D.Dhaya Devadas

... Appellant

Vs.

1.Transworld Garnet India Private Limited,
Represented by its General Manager, Stephen David,
No.34/46, MGR Road,
Kalakshetra Colony,
Besant Nagar, Chennai – 600 090.



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2.The State of Tamil Nadu,
Represented by the Secretary to Government,
Industries Department,
Fort St. George, Chennai.

3.The Special Committee appointed
Under G.O.Ms.No.156,
Represented by its Chairperson,
Mr.Gagandeep Singh Bedi, I.A.S.,
Fort St. George, Chennai.

4.Mr.Gagandeep Singh Bedi, I.A.S.,
Secretary to the Government,
Revenue Department,
Fort St. George, Chennai.

5.The District Collector,
Tirunelveli District.

6.The District Collector,
Tuticorin District.

7.The Member Secretary, 6
Tamil Nadu Pollution Control Board (TNPCB),
Panagal Maaligai,
76, Mount Salai, Guindy,
Chennai – 600 032.

8.Principal Secretary,
Government of Tamil Nadu,
Ministry of Environment and Forests,
Fort St. George,
Chennai – 600 009.

... Respondents

[R7 and R8 are impleaded vide order dated
12.11.2021 made in W.A.Nos.1220 of 2015]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ
appeal and set aside the order passed by the Learned Judge in
W.P.No.16716 of 2014 dated 29.07.2015.

For Appellant

: Mr.V.Selvaraj



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For R1

: Mr.Srinath Sridevan
Senior Counsel
For Mr.T.K.Bhaskar

For R2, R3, R5, R6, R8

: Mr.Aravind P.Dattar
Senior Counsel
Assisted by Mr.B.Vijay
Additional Government Pleader

For R7

: Mr.B.N.Suchindran
Standing Counsel
[For TNPCB]

W.A.No.1221 of 2015:

D.Dhaya Devadas

... Appellant

Vs.

- 1.V.V.Minerals, a firm,
Represented by Managing Partner,
Mr.S.Vaikundarajan,
Keeraikaransthattu,
Tisaiyanvilai, Tirunelveli District.
- 2.The State of Tamil Nadu,
Represented by the Chief Secretary to Government,
Fort St. George, Chennai.
- 3.The Special Committee appointed
Under G.O.Ms.No.156,
Represented by its Chairperson,
Mr.Gagandeep Singh Bedi, I.A.S.,
Fort St. George, Chennai.
- 4.Mr.Gagandeep Singh Bedi, I.A.S.,
Secretary to the Government,
Revenue Department,
Fort St. George, Chennai.
- 5.The State of Tamil Nadu,



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Represented by the Secretary to Government,
Industries Department,
Fort St. George, Chennai.

6.The Commissioner of Geology and Mining,
Chepauk, Chennai.

7.The Member Secretary, 6
Tamil Nadu Pollution Control Board (TNPCB),
Panagal Maaligai,
76, Mount Salai, Guindy,
Chennai – 600 032.

8.Principal Secretary,
Government of Tamil Nadu,
Ministry of Environment and Forests,
Fort St. George,
Chennai – 600 009.

... Respondents

[R7 and R8 are impleaded vide order dated
12.11.2021 made in W.A.Nos.1221 of 2015]

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the writ
appeal and set aside the order passed by the Learned Judge in
W.P.No.19641 of 2014 dated 29.07.2015.

For Appellant : Mr.V.Selvaraj

For R1 : Mr.V.Raghavachari
Senior Counsel
For Mr.T.K.Bhaskar

For R2, R3, R5, R6, R8 : Mr.Aravind P.Dattar
Senior Counsel
Assisted by Mr.B.Vijay
Additional Government Pleader

For R7 : Mr.B.N.Suchindran
Standing Counsel
[For TNPCB]



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COMMON JUDGMENT

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S.M.SUBRAMANIAM, J.

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Under assail is the order dated 29.07.2015 passed in W.P.Nos.16716 and 19641 of 2014. The writ petition in W.P.No.16716 of 2014 was instituted by the Transworld Garnet India Private Limited, challenging the Government orders issued in G.O.Ms.No.156, Industries (MMD.1) Department dated 08.08.2013 and consequential G.O.Ms.No.173, Industries (MMD.1) Department dated 17.09.2013.

2. The writ petition in W.P.No.19641 of 2014 was instituted by M/s.V.V. Mineral, a firm represented by its Managing Partner Mr.S.Vaikundarajan, seeking directions against the Special Committee appointed by the State Government under G.O.Ms.No.156, dated 08.08.2013. The petitioner sought to ensure that the Committee would comply scrupulously, unbiasedly, and fairly with the directions issued in order dated 12.12.2013, made in a batch of writ petitions, including W.P.(MD).No.1233 of 2012, while conducting inquiry and before submitting a report in pursuance of G.O.Ms.No.156 dated 08.08.2013 and G.O.Ms.No.173 dated 17.09.2013, and also for the relief to forbear Chairman of the Committee, Mr.Gagandeep Singh Bedi, I.A.S from heading the Special Committee in submitting the report.

3. The Writ Petitions were adjudicated and allowed by the learned



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Single Judge of this Court. Consequently, the present writ appeals have been instituted by the Government of Tamil Nadu and Mr.D.Dhaya Devadas.

I. Background of the Writ Appeals:

4. The Division Bench of the Madurai Bench of the Madras High Court considered the Government order issued in G.O.Ms.No.156 dated 08.08.2013 and G.O.Ms.No.173 dated 17.09.2013 issued in terms of Section 24 of the Mines and Minerals (Development and Regulation) Act, 1957 [hereinafter referred to as the 'MMDR Act']. The Division Bench granted liberty to all the private lessees and companies to place all the relevant materials before the Committee of experts constituted by the State Government. The Division Bench left the issues to be adjudicated by the Committee concerned to check and verify the claims and counterclaims. On receipt of the report from the Special Committee constituted under G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013, the Government was directed to take steps and pass necessary orders in accordance with law.

5. The said judgment became final, and private lessees participated in the process of adjudication without raising any allegations against the



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Committee or the Chairman of the Committee appointed by the State Government to conduct inspection under Section 24 of MMDR Act. The Special Committee was appointed based on the report of the District Collector on massive illegal beach sand mining and the consequential recommendations of the Commissioner of Geology and Mining.

6. Paragraph 35 of the order of the Division Bench dated 12.12.2013 is extracted hereunder:

“35. In such circumstances, in view of the fact that the parties concerned have been given the liberty to place all the relevant materials before the committee of experts, constituted by the State Government, we are not inclined to make any observations, with regard to the validity and correctness of the claims and the counter claims made by the parties before this Court. It would be left to the Committee concerned to check and to verify such claims, if necessary, by providing an opportunity of hearing to the parties concerned and to file its report before the State Government, as directed by this Court, by this order. On receipt of such report it is for the State Government to take appropriate steps and to pass necessary orders, as it finds fit and necessary, in accordance with law. As it is an admitted fact that subsequent proceedings had been issued pursuant to the impugned show cause notices issued by the respondent concerned, the writ petitions in



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W.P.Nos.14399 and 14400 of 2011 have become infructuous. As such, they are dismissed, as infructuous. In such circumstances, as no further orders are necessary, the writ petitions in W.P.No.5549 of 2007 and W.P.No.1233 of 2012 and the impleading petitions filed therein stand closed."

7. In pursuance of the orders of the Division Bench referred above, representations were submitted by the writ petitioners / lessees along with the documents to the Special Team headed by Mr.Gagandeep Singh Bedi, I.A.S. Opportunities were granted by the Special Team to the lessees to submit their representations and documents. Further representations / explanations were also submitted by the mining companies in the year 2014.

8. The Special Committee constituted commenced inspection by appointing various teams of officials from different departments. Several teams were constituted by the Chairman of the Special Team, Mr.Gagandeep Singh Bedi, I.A.S to inquire into allegations of massive illegal beach sand mining activities in three southern districts of Tamil Nadu namely Thoothukudi, Tirunalveli and Kanyakumari.

9. Suddenly writ petitions are filed by the M/s.Transworld Garnet India



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Private Limited and M/s.V.V. Mineral represented by its Managing Partner Mr.S.Vaikundarajan in W.P.Nos.16716 and 19416 of 2014 respectively. The first writ petition was filed challenging the two Government orders appointing Special Team in G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013. The second writ petition was filed seeking a direction to comply with the directions issued by the Division Bench of Madurai Bench of Madras High Court dated 12.12.2013 made in W.P.(MD).1233 of 2012, etc., and batch.

10. Both the writ petitions were heard by a learned Single Judge of the Madras High Court, and a final order was passed on 29.07.2015, allowing the writ petitions by setting aside the Government orders issued in G.O.Ms.No.156 dated 08.08.2013 and G.O.Ms.No,173, dated 17.09.2013. The learned Single Judge quashed the Government orders mainly on the ground that the Committee Chairman, Mr.Gagandeep Singh Bedi, I.A.S., was biased. In lieu, the Hon'ble Mr.Justice V.K.Sharma, a retired High Court Judge was appointed to undertake the task of conducting inspection and to submit a report. The Hon'ble Mr.Justice V.K.Sharma will proceed in accordance with the directions given by the Division Bench in W.P.MD.No.1233 of 2012 dated 12.12.2013. The said common order in both the writ petitions is under challenge in the present writ appeals.



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11. The 'State' preferred two writ appeals mainly on the ground that the learned Single Judge erroneously set aside the G.O.Ms.No.156 dated 08.08.2013 and G.O.Ms.No.173 dated 17.09.2013, issued in exercise of the powers conferred under Section 24 of the MMDR Act.

12. During the hearing of the earlier batch of writ petitions, including W.P.(MD).No.1233 of 2012, the Division Bench of this Court took note of the Government order issued in G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013 and passed an order on 12.12.2013, granting liberty to place all relevant materials before the Committee of experts constituted by the State Government. The Division Bench further held that it would be left to the Committee to verify the claims of the lessees, if necessary, by providing an opportunity for hearing to the parties, and to file its report before the State Government as directed in the said order.

13. Pertinently, the writ petitioners, including M/s.V.V.Mineral, Federation of Indian Placer Minerals Industries, M/s.Beach Minerals Company Private Limited. Mr.S.Vaikundarajan, M/s. Indian Garnet Sand Company Private Limited, M/s. Southern Enterprises, represented by its Managing Partner, Dr.D.Dhaya Devadas, M/s.Beach Minerals Sand



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Company, Transworld Garnet India Private Limited, Mr.K.Thankaraj, Mr.M.Ramesh, Mr.S.Vaikundarajan are parties to the common order dated 12.12.2013 passed at the first instance by the Division Bench of the Madurai Bench of Madras High Court.

14. None preferred appeal against the said order of the Division Bench and it became final. The petitioners did not raise any objection against Mr.Gagandeep Singh Bedi, I.A.S. Instead, all the parties accepted the Special Committee headed by Mr.Gagandeep Singh Bedi, and submitted their representations / explanations defending their cases before the Special Committee constituted by the Government.

II. Contentions on Behalf of Appellants:

15. Mr.Aravind P.Dattar, the learned Senior Counsel assisted by Mr.B.Vijay, learned Additional Government Pleader appearing on behalf of the Government of Tamil Nadu would strenuously contend that the learned Single Judge committed AN error in setting aside the Government orders appointing a Special Committee to conduct inspection under Section 24 of the MMDR Act into the serious allegations of massive illegal beach sand mining in three southern districts in the State of Tamil Nadu.



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16. The Special Committee appointed by the State Government is within its powers conferred under Section 24, and there is no violation of any provision of law. Thereafter, Government constituted Taluk, District and State Level Committees vide G.O.Ms.No.179 dated 27.07.2015, pursuant to the advise given by the Hon'ble First Bench of High Court of Madras to deal with the complaints against massive illegal beach sand mining in three southern districts of Tamil Nadu. The Taluk, District and State Level Committees are constituted in order to afford opportunities to all the parties and to find out the truth regarding allegation of illegal beach sand mining. It is a mechanism formulated to comply with the rules of natural justice and to deal with the complaints raised by the various persons.

17. The inspection ordered to be conducted under Section 24 became imminent for the purpose of culling out the truth regarding the allegations of illegal beach sand mining. In pursuance to the orders of the Central Government, actions were initiated to cancel the leases prematurely by invoking provisions of MMDR Act. The Central Government passed orders on 01.03.2019.

18. The Special Committee did not conduct inspections and inquiries on a solo basis, but worked with a team of responsible officials from



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Revenue, Geology and Mining, Environment and Forests and Survey Departments. The team consisted of over 40 officials in Thoothukudi District, over 120 officials in Tirunelveli District and over 30 officials in Kanniyakumari District, based on the volume of work. With responsible officials working as a different teams, no prejudices can hold ground. Therefore, the respondent lessees have now unearthed flimsy grounds, attributing prejudice against the Chairman of the Special Committee, Mr.Gagandeep Singh Bedi, I.A.S.

19. Garnet is a major mineral and the mining of this major mineral is governed by the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act No.67 of 1957) and the relevant rules framed under the said Act namely, the Mineral Concession Rules, 1960 and the Mineral Conservation and Development Rules, 1988. The State Government is competent to grant mining leases for mining Garnet on Government Poromboke lands and the Commissioner of Geology and Mining, Chennai is competent to grant mining lease in respect of patta lands. However, the grant of lease for major minerals specified in the first schedule is subject to the prior approval of Central Government as per Section 5(1) of MMDR Act.



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20. Section 23-C of the MMDR Act gives power to the State Government to make rules for preventing illegal mining, transportation and storage of minerals. The State Government is also the implementing authority of MMDR Act. As per Section 24 of the MMDR Act any person authorised by the Central or State Governments by general order may enter, inspect, survey, weigh and examine the position of working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with the Act and Rules made thereunder.

21. In the present case, the Indian Bureau of Mines, Ministry of Mines, Government of India has suspended the mining activities of 13 leases belonging to the respondent companies, as per Rule 13(2) of the Mineral Conservation and Development Rules, 1988 for the reasons that the companies have not got the approval of scheme of mining as per Rule 13(1) of the Mineral Conservation and Development Rules, 1988.

22. Mr.V.Selvaraj, learned counsel appearing on behalf of the writ appellant in W.A.Nos.1220 and 1221 of 2015 though supported the contentions of the State Government regarding the validity of the appointment of Special Committee under Section 24 of MMDR Act, disputed the actions of the State Government. He would submit that large-scale



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illegal beach sand mining were noticed by many people in that locality. The massive illegal beach sand mining caused environmental damage and livelihood of the people residing several villages in three southern districts.

23. Since no action was taken by the State Government and large-scale collusion and corrupt activities between lessees and Government officials were noticed, writ petitions were filed before the High Court. The Division Bench of the Madurai Bench of the High Court of Madras at the first instance allowed the Committee to conduct inspections with reference to Section 24 of MMDR Act. Therefore, the subsequent writ petition filed by few private lessees challenging the validity of the Committee is not entertainable. The validity of the Committee has been decided by the Division Bench of the Madurai Bench of the Madras High Court vide order dated 12.12.2013 and any challenge made thereafter before the learned Single Judge is not maintainable. Thus, the learned Single Judge has committed a serious error in entertaining the writ petition and setting aside the Special Committee constituted by the Government vide G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013.

24. Large-scale political, bureaucrat, and private lessees nexus are brought to the notice of this Court in earlier writ petitions by the writ



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appellants Mr.D.Dhaya Devadas. The State Government has no powers to grant lease to mine atomic minerals without the prior approval from the Central Government. But in the present case, the provisions of the MMDR Act mineral concession Rules, Atomic Energy Act and the Rules framed thereunder and the consequential notifications were completely flouted by the State Government on extraneous considerations.

25. Mr.V.Selvaraj, learned counsel would rely on Section 23-B of the MMDR Act, which contemplates "Power to Search". Section 23-C contemplates "Power of State Government to made rules for preventing illegal mining, transportation and storage of minerals". Section 24 deals with "Power of entry and inspection". The delegation of powers conferred under Section 26 have no application with reference to the Special Committee constituted under Section 24 of the Act by the State Government.

26. The power conferred to enter and conduct inspection is stand alone under Section 24 of MMDR Act. Thus, the grounds raised on behalf of the respondents that no notification was issued under Section 26 of MMRD Act is irrelevant and deserves to be rejected. Section 24 is stand alone provision empowering the State Government to enter and conduct inspection to ascertain the position of working, actual or prospective, of any



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mine or abandoned mine or for any other purpose connected with the Act or the rules made thereunder.

27. The constitution of the Committee became necessary in view of the massive illegal beach sand mining in three southern coastal districts of Tamil Nadu. Thus, the learned Single Judge has committed a serious error in not considering the earlier judgment of the Division Bench of this Court dated 12.12.2013, wherein, the Division Bench of the Madurai Bench of the Madras High Court upheld the validity of the constitution of the Special Committee, allowed the Special Committee to conduct inspection and submit a report.

28. Pertinently, the private lessees submitted their representations / explanations before the Committee, which were taken into consideration. That being so, subsequent writ petitions filed challenging the validity of the Committee is not maintainable and thus, the impugned order is liable to be set aside.

III. Contentions on Behalf of the Respondents:

29. Mr.V.Raghavachari, learned Senior Counsel and Mr.Srinath Sridevan, learned Senior Counsel, assisted by Mr.T.K.Bhaskar and the



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respective learned counsels appearing on behalf of the respondents in all the writ appeals would mainly contend that if the impugned Government orders in G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013 were to be read to mean a perpetual ban, then the Government orders would be ultra vires to Section 24-A of the MMDR Act. The Division Bench of Madurai Bench of Madras High Court has not expressed its approval, either directly or indirectly, about the ban. Therefore, the ban imposed in the impugned Government orders cannot sustain. The respondents have not sought for any variance of the orders of the Division Bench of Madurai Bench of Madras High Court, but seeing strict enforcement of the said order dated 12.12.2013 in letter and spirit. The Government has no power to impose blanket, indefinite, ban on beach sand mining. Therefore, the State Government is bound by the directions of the Division Bench dated 12.12.2013 in W.P.(MD).No.1233 of 2012, etc., and batch.

30. The conduct of the Committee has been questioned on behalf of the respondents. The respective learned Senior Counsels mainly contended that the Special Committee has not afforded sufficient opportunity nor issued notice to the lessees, while conducting inspections. Contrarily, they have invited the complainant and conducted inquiry. Therefore, unilateral examination of the complainant without affording opportunity to the



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respondents herein are in violation of rules of natural justice and the provisions of the MMDR Act.

31. The Division Bench, no doubt, permitted the Committee to conduct an inquiry under Section 24 of MMDR Act. However, the Committee acted beyond its scope under Section 24 of the MMDR Act. Therefore, the conduct of the Committee is not in accordance with the provisions of the MMDR Act.

32. It is mainly contended that Mr.D.Dhaya Devadas was heard in person. He was a petitioner in W.P.(MD).No.5549 of 2007 and W.P.(MD).No.1233 of 2012. However, such personal hearing was not granted to the respondents including M/s.V.V. Mineral and to other lessees. Thus, the inspections conducted under Section 24 MMDR Act is not in conformity with the directions issued by the Hon'ble Division Bench in its order dated 12.12.2013.

33. The respondents would further contend that the State Government has no power to deal with the major minerals. Under Section 15 of the MMDR Act, the State Government is empowered to deal with the minor minerals and therefore, the appointment of Special Committee



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invoking the powers under Section 24 of MMDR Act is untenable.

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IV. Discussion:

34. The key issues to be considered in the present writ appeals:

- (a) **Bias against the Chairman:** Whether Mr.Gagandeep Singh Bedi, I.A.S., the Chairman of the Special Committee appointed by State Government, is biased in conducting inspection under Section 24 of the MMDR Act, as ordered by the Government in G.O.Ms.No.156, Industries Department, dated 08.08.2013 and G.O.Ms.No.173, Industries Department, dated 17.09.2013.
- (b) **Prior Notice Requirement:** Whether prior notice is required before conducting any inspection into the mines under Section 24 of the MMDR Act.
- (c) **State Government's Power:** The scope of State Government's power under Section 24, 24A and Rule 50 of Mineral Concessions Rules.

V. Allegations of Bias Against the Chairman of Special Committee:

35. The argument of bias against the expert committee cannot be sustained. Vague allegations of bias without any sound reasoning cannot survive, that too in the latter part of the inquiry proceedings. It is pertinent to



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note that the respondents herein did not raise any objections against Mr.Bedi at the preliminary stage. In fact the Division Bench of this Court in its order dated 12.12.2013 had given an explicit permission to the mining companies including the respondents herein to submit their representations to Mr.Bedi and that the Committee shall act on such representations and submit its report at the earliest. The specific portion of that Order is as extracted below:

“34. In such circumstances, in view of the fact that a committee of experts under the Chairmanship of Thiru Gagandeep Singh Bedi, I.A.S., Secretary, Revenue Department has been constituted by the State Government to examine, investigate and to file a report, after physical verification of the mining sites in questions, we find it appropriate to permit the petitioner in the writ petitions, including those who are wanting to implead themselves in the writ petitions, to submit their representations to Mr.Gagandeep Singh Bedi, the Chairman of the Committee, along with the necessary documents, if any, within 15 days from today. It is also made clear that it would also be open to the private respondents who are parties herein, to submit their representation to the Chairman of the Committee, within the time specified above. On receipt of such representations, the Committee concerned shall examine the issues by making necessary enquiries and investigations, and if necessary, by serving appropriate notices on the parties concerned,



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and file a report before the State Government, for necessary action, as expeditiously as possible.”

36. Further, the Division Bench took note of the two impugned Government orders, G.O.Ms.Nos.156, dated 08.08.2013 and 173, dated 17.09.2013, and recorded the formation of the expert committee to probe the issue of illegal beach sand mining. It goes on to explicitly direct the committee constituted by the State Government under Mr.Bedi to examine the issues and conduct investigation and file a report before the State government. This can be elaborated by its observations as laid down in paragraph 35 of its order, which reads as follows:

“35. In such circumstances, in view of the fact that the parties concerned have been given the liberty to place all the relevant materials before the committee of experts, constituted by the State Government, we are not inclined to make any observations, with regard to the validity and correctness of the claims and the counter claims made by the parties before this Court. It would be left to the Committee concerned to check and to verify such claims, if necessary, by providing an opportunity of hearing to the parties concerned and to file its report before the State Government, as directed by this Court, by this order. On receipt of such report it is for the State Government to take appropriate steps and to pass necessary orders, as it finds fit and necessary, in



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accordance with law. As it is an admitted fact that subsequent proceedings had been issued pursuant to the impugned show cause notices issued by the respondent concerned, the writ petitions in W.P.Nos.14399 and 14400 of 2011 have become infructuous. As such, they are dismissed, as infructuous. In such circumstances, as no further orders are necessary, the writ petitions in W.P.No.5549 of 2007 and W.P.No.1233 of 2012 and the impleading petitions filed therein stand closed.”

37. Therefore, from the above observations of the Division Bench of this Court, it is clear that the Committee constituted vide G.O.Ms.No.156, Industries (MMD-I) Department dated 08.08.2013 headed by Mr.Gangandeep Singh Bedi, to inspect and to verify the illicit mining activities had already found the approval of the Division Bench of this Court. Further, there is an express direction to the Committee to submit its report as expeditiously as possible.

38. Hence, the very core of the order passed by the learned Single Judge loses its significance as the order directly contradicts the judgment rendered by the Division Bench of this Court. It is relevant to note that the Division Bench had already accorded their stamp of approval to the expert Committee constituted vide G.O.Ms.No.156, dated 08.08.2013. The



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respondents raising such vague and whimsical allegations of bias at a later stage ought not to have been entertained, when there is no reasonable apprehension of bias.

39. Hence, the learned Single Judge has erred in delivering a judgement, which runs contrary to the directions issued by the Division Bench. Furthermore, this judgment was followed in an order passed in a connected writ petition W.P.(MD).No.8562 of 2014 dated 29.05.2014, whereby a learned Single Judge of this Court reiterated the order of the Division Bench and directed the Committee to submit the report within a month and to comply with the directions issued by the Division Bench. Hence, by passing the present impugned judgment, the learned Single Judge has contradicted the orders of the Division Bench thereby paving way for confusion.

40. It is also pertinent to note that, subsequent to the order of this Court dated 12.12.2013, the respondent mining companies had also submitted their respective representations to the Chairperson of the Committee, Mr.Bedi. A perusal of these representations dated 30.12.2013 and 19.05.2014 does not indicate any doubts or aspersions on the Committee or on the Chairperson. In fact the wordings in those letters does



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not suggest any instance of bias and on the contrary, the respondents had requested the 'August' Committee to complete the inspection at the earliest.

41. Hence, this Court finds it dubious as to why the sudden allegation of bias is being levelled against the Expert Committee Head only at the time of filing of Writ petition in the year 2014. If the allegations of bias stems from an alleged series of events pertaining to the year 2002, the respondent companies could very well have objected to the committee headed by Mr.Bedi at the time of its constitution itself or at least could have raised its reservations when the matter was heard by the Division Bench of this Court in W.P.No.1233 of 2012 and batch. Instead the respondent companies went on to submit representations without even raising a tiniest shred of doubt on the Committee steered by Mr.Bedi. Hence, this Court doubts the veracity of allegations of bias levelled by the respondents.

42. Furthermore, relying on vague allegations of bias stemming from events that is said to have happened years ago without substantial reasoning cannot be a valid argument. There must be an actual bias or reasonable likelihood of bias. To sustain a plea of bias, there must be cogent, uncontroversial and undisputed material, and the court cannot go by vague, whimsical and capricious suspicion.



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43. Moreover the test of 'real likelihood of bias' ought to be applied in the instant case and this test can be applied in tandem with “**fair-minded and informed observer**” standard test. This can be elaborated further by the following explanation; To disqualify a person from adjudicating on the ground of interest in the subject matter of lis, the test of real likelihood of the bias is to be applied. In other words, one has to enquire as to whether there is real danger of bias on the part of the person against whom such apprehension is expressed in the sense that he might favour or disfavour a party. In each case, the Court has to consider whether a fair minded and informed person, having considered all the facts would reasonably apprehend that the Judge would not act impartially.

44. Both the above tests have been applied effectively across various decisions rendered by the Hon'ble Supreme Court. As detailed elaborately in the case of ***P.D.Dinakaran (1) vs. Judges Inquiry Committee and Others¹***, both these tests ought to be applied in tandem to effectuate a viable result. It is important to establish a real likelihood of bias rather than mere apprehensions and suspicions. Also the “fair minded and informed observer test” rests a notch higher than the 'reasonable man test' thereby

1. (2011) 8 SCC 380



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raising the bar of assessment. This also paves way for a case to case analysis of the 'rule against bias' thereby ensuring compliance of the principles of natural justice.

45. The natural justice principles are clear in terms that the Judge should be impartial and neutral. To invite the allegations of bias, there must be some personal or pecuniary interest for the Judge in the subject matter of consideration. In the case on hand the allegation of bias against Mr.Bedi is pertaining to events that is alleged to have happened in the year 2002 whereby in the course of performance of his duty as a Collector, he had passed some administrative orders on illegal beach sand mining. The present Chairman of the Committee as District Collector in the year 2002 issued a report to the department of Geology and Mining observing generally that mining lease should not be granted in coastal area as there was a possibility of law and order problem and the lessees quarrying in Government poromboke lands.

46. Moreover, as the then Collector of Kanyakumari District, illicit sand lorries and trucks were seized by the revenue officials under his instruction. These actions *per se* cannot pave way to cement the argument of bias against Chairperson of the committee.



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47. An analysis of these allegations showcases that he had only acted in the course of performance of his official function and does not indicate a personal or pecuniary bias on his part. Hence to throw away the entire enquiry proceedings on these irrelevant allegations that too raised much belatedly does not find any merit. Moreover the respondents herein had initially submitted representations and their contentions before the committee without any objection, it was only at a later stage that suddenly this argument of bias was raised at the time of filing of the Writ petition in 2014. This raises several questions as to the genuinity in the submissions of respondents in raising the plea of bias against the appellants. Also it paves way for a fair surmise that the respondents have waived their right to object the appointment of the Chairperson of the Committee. Furthermore the accusations of the respondents against the Chairperson does not reflect any direct or indirect nor personal or pecuniary interest in the subject matter of inspection.

48. At the outset the allegations have no direct bearing on the inspection conducted and is too far fetched an argument to be coloured with bias.



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49. It is also pertinent to note that the Committee consists of 230 Government officials from across various departments and is not a single man committee. Further, it is not an adjudicatory committee, but an inspection committee, whose duty is refrained to conducting inspection and verification of reports on illegal beach sand mining along the coast. Hence, the final decision making authority is the Government. Thereby to insinuate charges of bias against the Committee that too long after the commencement of the inquiry is highly unwarranted and irrelevant considering the nature of proceedings in hand.

VI. Whether Prior Notice is Required Before Inspection of the Mines?

50. The very object of surprise inspection would be defeated if prior notice is issued to the defaulting parties. Moreover the wordings in Section 24 of MMDR Act nowhere prescribes any issuance of notice prior to inspection. The Section clearly states that *“For the purpose of ascertaining the position of the working, actual or prospective, of any mine or abandoned mine or for any other purpose connected with this Act or the rules made thereunder, any person authorised by the [Central Government or a State Government] in this behalf, by general or special order, may—*

(a) enter and inspect any mine;



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(b) survey and take measurements in any such mine;

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(c) weigh, measure or take measurements of the stocks of minerals lying at any mine;

(d) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with, any mine and place marks of identification thereon, and take extracts from or make copies of such document, book, register or record;

(e) order the production of any such document, book, register, record, as is referred to in clause (d); and

(f) examine any person having the control of, or connected with, any mine.”

So the Section explicitly lays down the power of entry and inspection in the mines. Nowhere does it specify the need for prior notice to inspect. In the absence of provision to issue notice, this issue finds no merit and is liable to be dismissed at the threshold.

51. A distant argument that the Division Bench of this Court in its order dated 12.12.2013 had specified the issuance of notice also is devoid of any merit. For the sake of perusal, the relevant portion of the Order relied on by the respondents is as extracted below:

“34. It is also made clear that it



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would also be open to the private respondents, who are parties herein, to submit their representations to the Chairman of the committee, within the time specified above. On receipt of the representations, the Committee concerned shall examine the issues, by making necessary enquiries and investigation, and if necessary, by serving appropriate notices on the parties concerned, and file a report before the State government, for necessary action, as expeditiously possible.”

52. The Division Bench nowhere mandates the issuance of notice. It merely suggests that if necessary appropriate notice may be issued. These words cannot be construed as a substitute to Section 24. When the Act is clear in its terms, no new meaning/procedures can be accorded to to it. Courts cannot read down the provisions unless its constitutional validity is challenged.

VII. Whether Opportunity of Hearing to the Parties to Represent Their Views Before Closure of Mining Operation is a Sine Qua Non?

53. The learned Single Judge has erred in placing reliance on Section 24A of the Mines Act read with Rule 50 of the Mineral Concession Rules. It is noteworthy that both the impugned G.O's were issued with relation to



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inspection to be conducted in the said mines. It is a G.O issued under Section 24 of the Mines Act to conduct inspection and submit a report.

There is no further adjudication ordered but a mere inspection. Whereas the provisions relied on by the learned single judge is pertaining to Prohibition of working of mines which is not at all applicable in the instant scenario. The Appellant herein on reports of illegal beach sand mining had merely formed a probe committee to inspect the sites and submit its report. Therefore the contention of the respondents that the appellants had completely stopped the working of mines in totality is unfounded. The G.O.Ms.No.156, dated 08.08.2013 is clear in its terms that; The Commissioner, Geology and Mining has recommended that in view of the report of the District Collector, a Special team may be formed by the Government consisting of Officers from the Departments of Revenue, Environment and forests and Geology and Mining to inspect the mining in all the leased areas of Garnet, Ilmenite and Rutile in Thoothukudi district as per Section 24 of the Mines and Minerals (Development and Regulation) Act, 1957. The Commissioner of Geology and Mining has recommended that till the completion of the inspection by the Special teams, mining operations in respect of these leases may be directed to be stopped to facilitate inspections. The Commissioner of Geology and Mining has also recommended that the Assistant Director (Mines), Thoothukudi may be directed to stop forthwith



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the issuance of permits to transport the minerals. Further the G.O goes on to instruct the special team to exercise powers as enumerated under Section 24 of the MMDR Act, 1957. Hence, in order to facilitate the inspection the mining operations had halted. This power to stop mining operations pending inspection is an ancillary power flowing from Section 24.

54. Therefore the reliance placed by the respondents on Rule 50 of the Mineral Concession Rules is misplaced. The stoppage of work pending inspection cannot be construed as complete prohibition of working of mines. There is a clear distinction between both. Rule 50 deals with prohibition of working of mines which finds no place in the present scenario as the inspection was conducted under Section 24 of MMDR Act.

55. Moreover it is relevant to note that Rule 50 of Mineral Concession Rules applies only in cases of violation of lease conditions. The Chapter V of the Mineral Concession Rules, where Rule 50 finds place deals with Procedure for obtaining a Prospective License or Mining Lease in respect of Land in which the Minerals vest in a person other than the government. Further, under Rule 41, which deals with the “Applicability of the Chapter”, it states that - *“The provisions of this chapter shall apply only to the grant of prospecting licences and mining leases in respect of land in which the*



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minerals vest exclusively in a person other than the Government". To

elucidate clearly the Rule is reproduced as below:

(a) **Prohibition of working of mines:** If the State Government has reason to believe that the grant or transfer of a prospecting licence or mining lease or of any right, title or interest in such licence or lease is in contravention of any of the provisions of this chapter, the State Government may, after giving the parties an opportunity to represent their views and with the approval of the Central Government, direct the parties concerned not to undertake any prospecting or mining operations in the area to which the licence or lease relates.

56. Hence a conjoint reading of all the above provisions makes it clear that Rule 50 application in the present case is completely misplaced and incorrect.

57. By applying a completely irrelevant and unsuitable provision to the present case, the learned single judge has erred in setting aside G.O.Ms.156, dated 08.08.2013 and G.O.Ms.173, dated 17.09.2013. When the Appellant Government has not invoked its power under Rule 50, but rather had merely stopped work in mines for conducting inspection under Section 24 of the MMDR Act, a grave error is committed in setting aside of



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the impugned G.O. The learned single Judge ought to have examined the unsuitability of Rule 50 to the present case.

VIII. Personal Hearing to the Respondents:

(A) Personal Hearing Not Mandatory:

58. Personal hearing is not a conferred right in every case, but a generous act of discretion by an Inspecting Authority, particularly when the relevant statute is silent about affording personal hearing and when already the case of the petitioner in his written representation was fully considered and answered by the authority.

59. Oral hearing is not an integral part of hearing, unless the circumstances are so exceptional that without oral hearing a person cannot put up an effective defence.

60. The rule of audi alteram partem does not require full judicialization in every case. ***An opportunity of being heard does not necessarily mean an opportunity of oral hearing is to be provided.*** It depends upon the nature of inquiry and the nature of right involved in a given case.

61. Oral hearing may not be necessary where there is no adjudication



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as such. Oral hearing as such may be necessary in cases where the decision takes away some existing right or possession.

(B) Personal Hearing Under the Mines and Minerals (Development and Regulation) Act, 1957:

62. The **Mines and Minerals (Development and Regulation) Act, 1957** does not require a **personal hearing during the inspection** of mining operations. The inspection is intended to assess compliance with the law, and if violations are found, subsequent enforcement actions such as issuing a show-cause notice may lead to a hearing, but this happens after the inspection, not as part of it.

(C) Powers of Inspectors (Section 24):

63. Section 24 of the MMDR Act grants inspectors the authority to enter and inspect any mine, examine records, and check whether the mine is complying with the provisions of the Act and the rules.

64. The role of the inspector is to carry out the inspection, ensure compliance, and issue notices or orders if violations are found.

65. The MMDR Act **does not require a personal hearing during**



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this inspection process. The inspection is focused on verifying safety, operational standards, and adherence to the Act's provisions.

66. **Personal hearings** are typically not part of the routine inspection but might be part of any enforcement proceedings following the inspection if violations or issues are identified.

(D) Issuance of Notices and Enforcement Actions:

67. If violations are detected during the inspection, the inspector may issue a **show cause notice** or a **notice of contravention**. This is when the mine operator is given a chance to respond.

68. A personal hearing could be offered as part of the **adjudication or enforcement** process if serious penalties (such as suspension or cancellation of mining rights) are involved. However, this is not automatically required during the inspection itself.

69. A **personal hearing** is more common in the **show-cause** or **penalty stages** following an inspection, not as a part of the inspection procedure.



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(E) Natural Justice and Administrative Discretion:

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70. While **natural justice** dictates that an individual or entity facing significant penalties should be given an opportunity to present their case, this typically happens **after the inspection** when an enforcement action is being considered. A **personal hearing** could be provided when there are **legal consequences** like the suspension of a mining lease or fines. However, during the inspection itself, this is not a requirement under the MMDR Act.

71. The Division Bench in its order dated 12.12.2013 had explicitly mentioned that representations can be submitted to the Chairman of the Committee by the parties concerned and if necessary, appropriate notices may be issued. This is not a mandatory order of issuance of notice, but a mere discretionary approach by which notice may or may not be given but it was never mandated by the Division Bench nor under any Statute applicable to the present case.

72. The powers conferred to the committee is clearly enumerated under Section 24 of MMDR Act and is confined to the same. The surprise inspection is conducted to verify and inspect the reports of illegal sand mining. It is a bizarre argument on the part of the respondents that notices



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must be served prior to surprise inspection. The inspection will no more be 'surprise' if notices are served. Hence this argument falls flat.

73. The Committee has powers under Section 24 to conduct inspection sans notice and the Division Bench order nowhere makes it mandatory to serve notice prior to inspection. Also the concerned parties were free to submit representations to the committee and in fact the committee forwarded the representations sent by the 6th respondent / Dhaya Devadas in the original petition on 28.10.2014 so as to enable the respondents to reply to the representation. When the communication channels for submitting representation and replies are open, the contention that personal hearing ought to have been granted is a discretion and not a matter of right. Further it is to be noted that the process was at a premature stage of mere inspection and not any adjudication.

74. It is also the contention of the appellant that personal hearing was accorded to representative of the writ petitioners in both Writ petitions on 19.08.2013. Moreover, the wordings of Section 24 does not suggest or mandate grant of personal hearing to the concerned parties at the time of inspection. It is amply clear that there is no necessity for personal hearing to be compulsorily granted at the time of inspection itself. Hence this is an



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insufficient ground to disregard the very formation of the committee.

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75. Further, when Section 24A read with Rule 50 of the Mineral Concession Rules does not apply to the present case, the question of grant of personal hearing does not arise. The power exercised by the committee flows from Section 24, which is the power only to enter and inspect.

76. The respondents from the very beginning are trying to stretch their contentions away from the prime point. This Court doubts that, whether the diversionary contentions by the respondents and misplaced application of provisions of law is to deviate the case from the moot issue which is the allegations of illegal beach sand mining. This is a serious concern, which can hamper the environmental balance.

IX. Conclusion:

77. The infirmities in the inspection process as suggested by the respondents are unsatisfactory and has no strong pedestal. The non-serving of notice for surprise inspection or stopping mine work pending inspection are all unjustified points of contention which finds no place in the provisions of law quoted by the respondents. The learned single Judge has erred in law by interfering with the impugned G.O's based on such



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untenable and unsubstantiated arguments.

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78. Consequently, the impugned order passed in W.P.Nos.16716 and 19641 of 2014 dated 29.07.2015 is set aside and the Writ Appeals are allowed. There shall be no order as to costs.

[S.M.S., J.] [M.J.R., J.]
17.02.2025

Jeni
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



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To

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- 1.The Member Secretary,
Tamil Nadu Pollution Control Board (TNPCB),
Panagal Maaligai,
76, Mount Salai, Guindy,
Chennai – 600 032.
- 2.The Principal Secretary,
Government of Tamil Nadu,
Ministry of Environment and Forests,
Fort St. George,
Chennai – 600 009.
- 3.The Secretary to Government,
The State of Tamil Nadu,
Industries Department,
Fort St. George, Chennai.
- 4.The Special Committee appointed
Under G.O.Ms.No.156,
Represented by its Chairperson,
Mr.Gagandeep Singh Bedi, I.A.S.,
Fort St. George, Chennai.
- 5.The District Collector,
Tirunelveli District.
- 6.The District Collector,
Tuticorin District.



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S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

Jeni

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